

FILED

NOV 14 2007

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

**U.S. DISTRICT COURT
MARTINSBURG, WV 25401**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**TERRELL DESHAWN GATLING,
JAMES WILLIS DAYE,
NIESHA RENEE WITHERALL, and
BARBARA ANN GROSS,**

Defendants.

Criminal No.

3:07CR89

Violations:

**18 U.S.C. § 2
21 U.S.C. § 841(a)(1)
21 U.S.C. § 841(b)(1)(A)
21 U.S.C. § 841(b)(1)(B)
21 U.S.C. § 841(b)(1)(C)
21 U.S.C. § 846
21 U.S.C. § 856**

INDICTMENT

The Grand Jury charges that:

COUNT 1

(Conspiracy to Distribute Cocaine Base)

From on or about December of 2006, and continuing to on or about the date of this Indictment, within the Northern District of West Virginia, and elsewhere, the defendants, **TERRELL DESHAWN GATLING, JAMES WILLIS DAYE, NIESHA RENEE WITHERALL, and BARBARA ANN GROSS**, did knowingly and willfully combine, conspire, confederate and agree and have a tacit understanding with each other, and with other persons known and unknown to the Grand Jury, to commit an offense against the United States, to wit: to violate

Title 21, United States Code, Section 841(a)(1). It was a purpose and object of the conspiracy knowingly and intentionally to possess with intent to distribute and to distribute in excess of fifty (50) grams of cocaine base, also known as "crack," a Schedule II narcotic drug-controlled substance, as designated by Title 21, United States Code, Section 812(c), Schedule II(a)(4), in violation of Title 21, United States Code, Section 846 and Section 841(b)(1)(A).

COUNT 2

(Distribution of Cocaine Base)

On or about December 12, 2006, at approximately 10:50 P.M., in Martinsburg, West Virginia, within the Northern District of West Virginia, the defendant, **JAMES WILLIS DAYE**, did unlawfully, knowingly, intentionally, and without authority distribute approximately 2.55 grams of cocaine base, also known as "crack," a Schedule II narcotic drug-controlled substance as defined in Title 21, United States Code, Section 812(c), Schedule II(a)(4), to a person known to the Grand Jury, in exchange for \$300.00, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 3

(Distribution of Cocaine Base)

On or about December 12, 2006, at approximately 12:45 P.M., in Martinsburg, West Virginia, within the Northern District of West Virginia, the defendant, **BARBARA ANN GROSS**, did unlawfully, knowingly, intentionally, and without authority distribute approximately 0.95 grams of cocaine base, also known as "crack," a Schedule II narcotic drug-controlled substance as defined in Title 21, United States Code, Section 812(c), Schedule II(a)(4), to a person known to the Grand Jury, in exchange for \$180.00, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 4

(Possession with Intent to Distribute Cocaine Base)

On or about December 13, 2006, at approximately 1:30A.M., in Martinsburg, West Virginia, within the Northern District of West Virginia, the defendants, **TERRELL DESHAWN GATLING** and **NIESHA WITHERALL**, aided and abetted by each other, did unlawfully, knowingly, intentionally, and without authority possess with the intent to distribute approximately 45.66 grams of cocaine base, also known as "crack," a Schedule II narcotic drug controlled substance as defined in Title 21, United States Code, Section 812(c), Schedule II(a)(4), in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B) and Title 18, United States Code, Section 2.

COUNT 5

(Possession with Intent to Distribute Cocaine Base)

On or about December 13, 2006, at approximately 1:30A.M., in Martinsburg, West Virginia, within the Northern District of West Virginia, the defendant, **JAMES WILLIS DAYE**, did unlawfully, knowingly, intentionally, and without authority possess with the intent to distribute approximately 5.63 grams of cocaine base, also known as "crack," a Schedule II narcotic drug controlled substance as defined in Title 21, United States Code, Section 812(c), Schedule II(a)(4), in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

A true bill,

/s/

Grand Jury Foreperson
(Signature on File)

/s/

Sharon L. Potter
United States Attorney